

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

CIVIL DIVISION

In Re Minnesota State Court Guidant Corp.
Implantable Defibrillators Product Liability
Litigation.

ORDER 8

Court File No.: 62-C4-06-006672

CASE MANAGEMENT ORDER

Upon consultation with the parties upon hearing, this court issues the following Order.

IT IS ORDERED:

1. This order is to be applied in conjunction with the other orders of this court and Minnesota law, including the Minnesota Rules of Civil Procedure.

2. **Terminology.** The following meanings are given to certain terms contained in this Order.

"This litigation" refers to all cases subject to *In re Minnesota State Court Guidant Implantable Defibrillators Products Liability Litigation*.

"All cases" refers to all cases in this litigation.

"1861 cases" refers to personal-injury and wrongful-death cases involving the implant of a Ventak PRIZM 2 DR, Model 1861, device that have been commenced and filed prior to the date of this order.

"Lead cases" refers to the four cases designated by liaison counsel as the first four 1861 cases to be tried in this litigation. Once lead cases have been identified, they are subject to scheduling deadlines that only apply to lead cases.

"Contak Renewal cases" refers to personal-injury and wrongful-death cases involving any model of that device.

3. **Case priority.** By this Order and future orders regarding the management of cases in this litigation, this Court intends to give priority to cases whose issues are most similar, and that provide the broadest opportunity to efficiently manage discovery, settlement and trial across all cases. Nonetheless, any party may request that the court advance a case for reasons that are compelling, and compatible with the efficient management of this litigation.

4. **Informational statements.** Informational statements under Minn. Gen. R. Prac. 111.02 shall not to be provided absent further order of this court.

5. **Discovery.** Discovery on any case can occur at any time prior to the discovery deadlines set by this Order. Contention interrogatories are permitted. In the event a party requests the identity of a witness, the adverse party shall provide the witness's full name and, if known or reasonably obtainable, address, phone number, occupation and/or current job title, current employer, and employer's address.

6. **Medical examination of Plaintiffs.** Defendants seeking a health examination pursuant to Rule 35.07 of the Minnesota Rules of Civil Procedure shall bear the cost of such examination. Defendants shall also be responsible for the reasonable cost of transporting the plaintiff to the location of the examination if it is more than 50 miles from the plaintiff's residence, unless it is not more than 50 miles from plaintiff's residence at the time of the implant. A copy of the health-examination report shall be provided to counsel for the examined Plaintiff within 30 days of the examination.

7. **Experts.** The opinion of an expert shall be disclosed by written reports or answers to interrogatories signed by the expert, unless the expert's full opinion is contained in a medical record or other business record as provided by Minn. R. Evid. 803 (4) and (6). Experts other than treating health-care experts may be deposed.

8. **Mediation.** All cases shall submit to mediation except for lead cases or cases mediated prior to the date of this order. Lead cases may submit to mediation upon agreement of the parties. Mediators shall be selected by the Court, and the assignment of mediators shall be posted on the web-site of the Second Judicial District. Liaison counsel will receive notice of when the assignment of mediators is posted on the web-site. Parties in any case may submit the case to mediation at any time prior to a mediation deadline set by this Order, and may engage in non-mediated settlement discussions at any time.

9. **Settlement conferences.** Given the limits of available court time, this Court will NOT conduct settlement conferences unless the parties seek the court's assistance in a global settlement for all cases subject to this litigation. Settlement of individual cases will be left to mediation, or non-mediated negotiations between parties.

10. **Trial dates.** Dates of trial for cases other than lead cases shall be set by further order of this court. In general, trial dates for cases other than lead cases shall be set according to device and in order of case filing.

11. **Deposition testimony at trial.** A party intending to offer deposition testimony at trial shall, not less than 21 days prior to the pre-trial conference, notify the adverse party and designate such testimony by page and line. Within 7 days of receipt, the adverse party shall give notice of any objection to such testimony, designating the page and line and the basis for the objection. The adverse party may also designate by page and line additional testimony it intends to offer from the deposition. The offering party may respond in kind within 7 days.

12. **Pre-trial submissions.** The parties shall submit their joint statement of the case, motions in limine, witness lists, jury questionnaires (if any) and proposed jury instructions and verdict forms no later than 21 days prior to trial. An adverse party's response to a motion in

limine shall be submitted no later than 14 days prior to trial.

13. **Pre-trial conferences.** Pre-trial conferences will be set approximately 2 weeks prior to trial by notice from the court.

14. **Hours of trial.** Absent conflicts of the court, trial will be conducted Monday through Friday from 9 a.m. to 12 p.m., and 1:30 p.m. to 4:30 p.m. Court conferences are to be held outside of those hours.

15. **Deadlines.** The following deadlines shall apply to the cases specified:

2/01/07 ALL CASES: Defendants shall serve written discovery on each Plaintiff subject to this litigation. In lawsuits commenced after the date of this order, Defendants shall serve written discovery within 30 days after commencement of suit.

3/15/07 ALL CASES: Plaintiffs shall respond to Defendants' written discovery. In lawsuits commenced after the date of this order, Plaintiffs' shall respond to Defendants' written discovery within the time provided by the Minnesota Rules of Civil Procedure.

4/01/07 1861 CASES: Deadline for joining additional parties.

6/01/07 ALL CASES: Deadline for joining additional parties. In lawsuits commenced after the date of this order, the joining of additional parties shall occur no later than 120 days after commencement of suit.

7/15/07 1861 CASES: Deadline for completion of health examinations under Rule 35 of the Minnesota Rules of Civil Procedure.

8/15/07 LEAD CASES: Plaintiffs and Defendants each designate an 1861 explant case and 1861 death case for trial, and provide the names of those four cases to the court.

9/15/07 LEAD CASES: Deadline for Plaintiff's disclosure of experts.

10/15/07 LEAD CASES: Deadline for Defendants' disclosure of experts.

11/01/07 LEAD CASES: Deadline for completion of discovery.

11/01/07 LEAD CASES: Deadline for hearings on dispositive and non-dispositive motions.

1/01/08 1861 CASES: Deadline for Plaintiffs' disclosure of expert witnesses.

1/28/08 LEAD CASES: Date certain trial for Plaintiffs' designated explant case.

2/01/08 1861 CASES: Deadline for Defendants' disclosure of expert witnesses.

2/11/08 LEAD CASES: Date certain trial for Defendants' designated explant case.

3/01/08 1861 CASES: Deadline for completion of discovery.

3/31/08 LEAD CASES: Date certain trial for Defendants' designated death case.

4/14/08 LEAD CASES: Date certain trial for Plaintiffs' designated death case.

6/01/08 1861 CASES: Deadline for completion of mediation.

6/01/08 CONTAK RENEWAL CASES: Deadline for completion of health examinations under Rule 35 of the Minnesota Rules of Civil Procedure.

7/15/08 CONTAK RENEWAL CASES: Deadline for Plaintiffs' disclosure of experts.

8/15/08 CONTAK RENEWAL CASES: Deadline for Defendants' disclosure of experts.

9/01/08 CONTAK RENEWAL CASES: Deadline for completion of discovery.

9/01/08 CONTAK RENEWAL CASES: Deadline for hearings on dispositive and non-dispositive motions.

Dated: January 25, 2007

BY THE COURT:

A handwritten signature in black ink, appearing to read "W. H. Leary III", written over a horizontal line.

William H. Leary III
District Court Judge